

REMARKS/ARGUMENTS

Claims 1-4, 11- 26, 28, 29, 33, 34, 38, 39, 42 and 43 are pending in the present application, of which claims 1, 4, 13, 17, 19, 23, 25, 26, 42 and 43 are the independent claims. Applicants believe that the present application is in condition for allowance, for which prompt and favorable action is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1-4, 13-15, 17, 19, 20, 21, 23, 25-29, 34, 38, 39, 42 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tiedemann (U.S. 6,396,867) ("Tiedemann") in view of Kumar (U.S. 6,434,367) ("Kumar"). Claims 11, 12, 16, 18, 22 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tiedemann in view of Kumar and in further view of Sawahashi (U.S. 5,590,409) ("Sawahashi"). Reconsideration and withdrawal of these rejections are respectfully requested.

Applicants submit that the Tiedemann reference does not qualify as prior art for purposes of 35 USC § 103(a) under 35 USC § 103(c) for the reasons set forth below.

The Tiedemann reference issued as a patent on May 28, 2002, and was therefore published after the February 12, 2001 filing date of the present application. Thus, the Tiedemann reference could only qualify as a prior art reference under 35 USC § 102(e). Further, Applicants submit that the subject matter of the Tiedemann reference and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Therefore, the Tiedemann reference does not qualify as prior art for purposes of 35 USC § 103(a) under 35 USC § 103(c). See, e.g., MPEP 2146. Because the Tiedemann reference does not qualify as prior art, Applicants submit that claims 1-4, 11- 26, 28, 29, 33, 34, 38, 39, 42 and 43 are in condition for allowance and respectfully request that the rejections of these claims be withdrawn.

Application No. 09/782,751
Response dated July 8, 2009
Reply to Office Action of May 1, 2009


CONCLUSION

In view of the foregoing remarks, all of the pending claims are believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 7/9/09

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